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LOAN NUMBER 3396-IND

LOAN AGREEMENT  
(Ordinary Operations)  
(Bihar New Ganga Bridge Project)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 15 NOVEMBER 2016

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IND 48373

**LOAN AGREEMENT  
(Ordinary Operations)**

LOAN AGREEMENT dated 15 November 2016 between INDIA acting by its President ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

**WHEREAS**

(A) the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(B) the Project will be carried out by the State of Bihar ("State") acting through the Bihar State Road Development Corporation Limited ("BSRDCL"), and for this purpose the Borrower will make available to the State the proceeds of the loan provided for herein upon terms and conditions mutually satisfactory to ADB and the Borrower; and

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB, the State and BSRDCL;

NOW THEREFORE the parties hereto agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 3.03 is deleted and the following is substituted therefor:

**Commitment Charge; Credit; Maturity Premium.**

(a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(b) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the credit against the interest payable by the Borrower.

(c) The Borrower shall pay a maturity premium at the rate specified in the Loan Agreement, which maturity premium shall remain fixed for the term of the Loan. ADB shall add the maturity premium to the interest payable by the Borrower.

(b) Section 3.06 is deleted and the following is substituted therefor:

**Rebate.** (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(c) Section 3.07 is deleted and the following is substituted therefor:

**Surcharge.** (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the difference between the Fixed Spread that will be applied to new Loans and the Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

(a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(c) "Environmental Impact Assessment" or "EIA" means the environmental impact assessment for the Project, including any update thereto, prepared and submitted by the Borrower through the State and cleared by ADB;

(d) "Environmental Management Plan" or "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the EIA;

(e) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;

(f) "Financing Arrangements" means the arrangements between the Borrower and the State as per current policy of the Borrower, and acceptable to ADB;

(g) "Goods" means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(h) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;

(i) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(j) "PAM" means the project administration manual for the Project dated May 2016 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(k) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

(l) "Procurement Plan" means the procurement plan for the Project as included in the PAM and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(m) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the State acting through BSRDCL, or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(n) "Resettlement Plan" or "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower through the State and cleared by ADB;

(o) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower through the State to ADB that describes progress with implementation of and compliance with the EMP and the RP (as applicable), including any corrective and preventative actions;

(p) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009); and

(q) "Works" means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

## ARTICLE II

### The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of five hundred million Dollars (\$500,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 21 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

- (a) LIBOR;
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.10% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 June and 15 December in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

### **ARTICLE III**

#### **Use of Proceeds of the Loan**

Section 3.01. The Borrower shall make the proceeds of the Loan available to the State upon terms and conditions mutually agreeable to ADB and the Borrower, and shall cause the State and BSRDCL to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2021 or such other date as may from time to time be agreed between the Borrower and ADB.

### **ARTICLE IV**

#### **Particular Covenants**

Section 4.01. (a) The Borrower shall cause the Project to be carried out by the State and BSRDCL with due diligence and efficiency and in conformity with sound applicable technical, financial, business, and development practices.

(b) In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed by the State and BSRDCL all obligations set forth in Schedule 5 to this Loan Agreement and the Project Agreement.

Section 4.02. The Borrower shall make available, or cause to be made available by the State or BSRDCL, promptly as needed, the funds, facilities, services, land and other resources, as required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 4.03. The Borrower shall ensure or cause the State to ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.04. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.05. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days from the date of ADB's confirmation of their acceptability by posting them on ADB's website.

Section 4.06. In so far as it relates to the Project, the Borrower shall take all actions which shall be necessary on its part to enable BSRDCL to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.07. (a) In so far as it relates to the Project, the Borrower shall exercise its rights under the Financing Arrangements in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) In so far as it relates to the Project, no rights or obligations under the Financing Arrangements shall be assigned, amended, abrogated or waived without the prior notice to ADB.

## **ARTICLE V**

### **Effectiveness**

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

## **ARTICLE VI**

### **Miscellaneous**

Section 6.01. The Secretary, Additional Secretary, Joint Secretary, Director, or Deputy Secretary, in the Department of Economic Affairs of the Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.



Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

The Secretary to the Government of India  
Department of Economic Affairs  
Ministry of Finance  
North Block  
New Delhi - 110001  
India

Facsimile Number:

(91-11) 2309-2511

For ADB


Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
1550 Metro Manila  
Philippines

Facsimile Numbers:


(632) 636-2444  
(632) 636-2340.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

INDIA

By  157x1/16  
Raj Kumar  
Joint Secretary (MI)  
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By   
L. B. Sondjaja  
Officer-in-Charge  
India Resident Mission

## **SCHEDULE 1**

### **Description of the Project**

1. The objective of the Project is improved connectivity across the Ganges River between north and south Bihar.
2. The Project shall comprise design, procurement, construction and completion of the new Ganga bridge and integrated approach road network consisting of (a) around 9.8km of new road bridge structure; (b) around 10km of approach viaduct and embankments; (c) widening of around 3km of NH-103; and (d) tolling and service facilities from Deedargunj on NH-30 to Chak Sikandar on NH-103.
3. The Project includes the provision of Consulting Services to support the activities described in paragraph 2 of this Schedule 1.
4. The Project is expected to be completed by 31 December 2020.

**SCHEDULE 2****Amortization Schedule****(Bihar New Ganga Bridge Project)**

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 December 2021	2.380952
15 June 2022	2.380952
15 December 2022	2.380952
15 June 2023	2.380952
15 December 2023	2.380952
15 June 2024	2.380952
15 December 2024	2.380952
15 June 2025	2.380952
15 December 2025	2.380952
15 June 2026	2.380952
15 December 2026	2.380952
15 June 2027	2.380952
15 December 2027	2.380952
15 June 2028	2.380952
15 December 2028	2.380952
15 June 2029	2.380952
15 December 2029	2.380952
15 June 2030	2.380952
15 December 2030	2.380952
15 June 2031	2.380952
15 December 2031	2.380952
15 June 2032	2.380952
15 December 2032	2.380952
15 June 2033	2.380952
15 December 2033	2.380952
15 June 2034	2.380952
15 December 2034	2.380952

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 June 2035	2.380952
15 December 2035	2.380952
15 June 2036	2.380952
15 December 2036	2.380952
15 June 2037	2.380952
15 December 2037	2.380952
15 June 2038	2.380952
15 December 2038	2.380952
15 June 2039	2.380952
15 December 2039	2.380952
15 June 2040	2.380952
15 December 2040	2.380952
15 June 2041	2.380952
15 December 2041	2.380952
15 June 2042	<u>2.380968</u>
<b>Total</b>	<b>100.000000</b>

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (a) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (b) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

**SCHEDULE 3****Allocation and Withdrawal of Loan Proceeds**General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category of the Table).

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Reallocation

3. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

- (a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, in consultation with and by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and
- (b) if the amount of the Loan allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, in consultation with and by notice to the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

4. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook and detailed arrangements agreed upon between ADB and the Borrower.

Retroactive Financing

5. Withdrawals from the Loan Account may be made to finance eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with Works and Consulting Services, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Bihar New Ganga Bridge Project)</b>			
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing (\$) Category</b>	<b>Basis for Withdrawal from the Loan Account</b>
1	Works	445,140,000	92% of total expenditure claimed
2	Consulting Services	17,320,000	100% of total expenditure claimed
3	Unallocated	37,540,000	
	<b>Total</b>	<b>500,000,000</b>	



## **SCHEDULE 4**

### **Procurement of Goods, Works and Consulting Services**

#### General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

#### Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the method of procurement set forth herein: International Competitive Bidding.
4. The method of procurement is subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the method of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

#### Conditions for Award of Contract

5. BSRDCL shall not award the Works contract until:
  - (a) the State's Environment Impact Assessment Authority has granted final approval of the EIA; and
  - (b) BSRDCL has incorporated the relevant provisions from the EMP into the Works contract.
6. BSRDCL shall not award the Works contract until the State through BSRDCL has prepared and submitted to ADB the final RP and obtained ADB's clearance of such RP.

#### Consulting Services

7. Except as ADB may otherwise agree, the BSRDCL shall apply quality-and cost-based selection for selecting and engaging Consulting Services.

#### Industrial or Intellectual Property Rights

8. (a) The Borrower, State and BSRDCL shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower, State and BSRDCL shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

9. The Borrower, State and BSRDCL shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

#### ADB's Review of Procurement Decisions

10. Contracts procured under international competitive bidding procedures shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

## SCHEDULE 5

### Execution of Project; Financial Matters

#### Implementation Arrangements

1. The Borrower, State and BSRDCL shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Borrower, State, BSRDCL and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

2. (a) The State and BSRDCL shall ensure that towards smooth implementation of the Project, grievances if any from stakeholders, relating to Project implementation or use of Project funds are addressed effectively and efficiently.

(b) The Borrower shall ensure that the State and BSRDCL comply with all the requirements and obligations in their part as included in this Loan Agreement and the Project Agreement to meet the objectives of the Project in a timely and efficient manner.

#### Counterpart Funds

3. The State shall make available the Loan proceeds to BSRDCL under appropriate arrangements acceptable to ADB, and ensure:

- (a) sufficient counterpart funds are allocated from its budget for each fiscal year, in a timely manner, for the efficient implementation of the Project; and
- (b) adequate funds towards operations and maintenance of Project facilities, through budgetary allocations or other means, are provided to BSRDCL, during and after Project completion.

#### Environment

4. The Borrower, State and BSRDCL shall ensure that the preparation, design, construction, implementation, operation and decommissioning of the project facilities comply with (a) all applicable laws and regulations of the Borrower and State relating to environment, health, and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the EIA and EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

5. The Borrower, State and BSRDCL shall ensure that no Works under paragraphs 2(a) and 2(b) of Schedule 1 to this Loan Agreement are commenced until the EIA and EMP have been updated and cleared by ADB after the finalization of the detailed design for the Works.

Land Acquisition and Involuntary Resettlement

6. The Borrower, State and BSRDCL shall ensure that all land and all rights-of-way required for the Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower and State relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

7. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Borrower, State and BSRDCL shall ensure that no physical or economic displacement takes place in connection with the Project until:

- (a) compensation and other entitlements have been provided to affected people in accordance with the RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

8. The Borrower, State and BSRDCL shall ensure that the Project does not impact indigenous peoples within the meaning of the Safeguard Policy Statement. If due to unforeseen circumstances, the Project impacts indigenous peoples, the Borrower, State and BSRDCL, as applicable, shall take all steps necessary or desirable to ensure that the Project complies with all applicable laws and regulations of the Borrower and State and with the Safeguard Policy Statement.

Human and Financial Resources to Implement Safeguards Requirements

9. The Borrower and State shall make available or cause BSRDCL to make available necessary budgetary and human resources to fully implement the EMP and the RP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

10. The Borrower and State shall ensure or cause BSRDCL to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the EIA, the EMP and the RP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;

- (c) provide the Borrower with a written notice of any unanticipated environmental, resettlement risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMP and the RP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

#### Safeguards Monitoring and Reporting

11. The Borrower and State shall do the following or cause BSRDCL to do the following:

- (a) submit (i) quarterly Safeguards Monitoring Reports for environmental impacts; and (ii) semi-annual Safeguard Monitoring Reports for resettlement and other social impacts to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMP and the RP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
- (c) no later than 6 months after the award of the Works contract, engage qualified and experienced external experts under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process, and facilitate the carrying out of any verification activities by such external experts; and
- (d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP or the RP promptly after becoming aware of the breach.

#### Prohibited List of Investments

12. The Borrower, State and BSRDCL shall ensure that no Loan proceeds are used to finance any activity included in the list of prohibited investment activities in Appendix 5 of the SPS.

#### Other Social Measures

13. The Borrower, State and BSRDCL shall ensure that Works contracts under the Project follow all applicable labor laws of the Borrower and State and that these further include provisions to the effect that contractors: (a) carry out HIV/AIDS awareness programs

for labor and disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS as part of health and safety measures for those employed during construction; and (b) follow and implement all statutory provisions on labor (including not employing or using children as labor, equal pay for equal work), health, safety, welfare, sanitation, and working conditions. Such contracts shall also include clauses for termination in case of any breach of the stated provisions by the contractors.

#### Gender

14. The Borrower, State and BSRDCL shall ensure that the Project is undertaken in conformity with the proactive gender features of the Project as agreed between ADB, the Borrower, State and BSRDCL and referred in the PAM.

#### Communications and Participation

15. The Borrower, State and BSRDCL shall ensure that the Project is undertaken in conformity with the communication strategy as agreed between ADB, the Borrower, State, and BSRDCL and referred in the PAM.

#### Procurement

16. BSRDCL shall announce the Project and business opportunities associated with the Project on its website. The website shall disclose the following information in relation to Goods, Works and Consulting Services procured for the Project: (a) the list of participating bidders, (b) the name of the winning bidder, (c) the amount of the contracts awarded, and (d) the Goods, Works and Consulting Services procured. In accordance with the Procurement Guidelines, the published information for contracts procured through International Competitive Bidding shall also include the bid prices as read out at bid opening, the reasons for rejection of unsuccessful bidders, and the duration of the awarded contract.

#### Governance and Anticorruption

17. The Borrower, State and BSRDCL shall comply with ADB's Anticorruption Policy (1998, as amended to date) and (a) shall ensure that the anticorruption provisions acceptable to ADB, the Borrower, the State and BSRDCL are included in all bidding documents and contracts financed by ADB in connection with the Project, including provisions specifying the right of ADB to review and examine the records and accounts of the State and BSRDCL and all contractors, suppliers, consultants, and other service providers as they relate to the Project, and as included in the PAM; (b) shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project; (c) acknowledge that ADB reserves the right to investigate directly or through its agents any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (d) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the PAM.